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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,068	12/05/2003	Jeffrey Merwin	76288-88036	9191
27148	7590	01/05/2007	EXAMINER	
POL SINELLI SHALTON WELTE SUELTHAUS P.C. 700 W. 47TH STREET SUITE 1000 KANSAS CITY, MO 64112-1802			WEST, PAUL M	
		ART UNIT	PAPER NUMBER	2856

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/729,068	MERWIN, JEFFREY	
	Examiner	Art Unit	
	Paul M. West	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 November 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 and 6-21 is/are pending in the application.
 - 4a) Of the above claim(s) 1-4 and 11 is/are withdrawn from consideration.
- 5) Claim(s) 6-10 and 21 is/are allowed.
- 6) Claim(s) 12-14 and 17-20 is/are rejected.
- 7) Claim(s) 15 and 16 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)

Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1 September 2006 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 12-14 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kemp et al (5,600,997) in view of Raphael (5,546,009).
2. As to claims 12 and 17-20, Kemp et al teach a method comprising the steps of: introducing a signal 30 into a fluid-receiving space 20 such that the signal is present for sensing within fluid 21 at a predetermined level, the signal being transmitted through the fluid receiving space 20 according to a value of electric conductivity of the fluid; providing a probe 24 at the predetermined level for sensing the signal; sensing for the presence of the signal within the fluid at the predetermined level; and providing a control

function in response whether the signal is so sensed, in order to indicate whether the fluid is or is not present at the predetermined level wherein the control function is an indication that fluid is lower than the predetermined level (Col. 5, lines 45-62) and is carried out by microprocessor control (Col. 6, lines 21-40) and establishing a delay on make and a delay on break time for indicating that fluid is lower than the predetermined level (Col. 10, lines 5-14). Kemp et al do not teach selectively adjusting the sensitivity of the probe.

3. Raphael teaches a method for sensing the presence or absence of a fluid at a predetermined level by detecting with a probe 16,17 a signal transmitted through the fluid and based on the electrical conductivity of the fluid, and for selectively adjusting the sensitivity of probe-responsive circuitry according the value of the conductivity of the fluid (Col. 9, lines 50-59). It would have been obvious to one of ordinary skill in the art to combine the teachings of Raphael with the method of Kemp et al because adjusting the sensitivity allows the apparatus to be used with a larger and more diverse array of fluids while maintaining accurate measurements.

4. Regarding claim 13, Kemp et al teach sensing the presence of the signal 30 by using a signal responsive probe 24 inserted into the fluid-receiving space 20 at the predetermined level (see Fig. 2).

5. Regarding claim 14, Kemp et al teach the signal being of a periodic nature (Col. 4, lines 45-48).

Allowable Subject Matter

6. Claims 6-10 and 21 are allowed.
7. Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

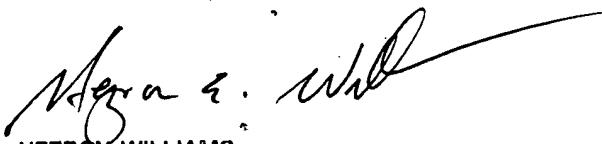
Response to Arguments

8. Applicant's arguments with respect to claim 12 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul M. West whose telephone number is (571) 272-8590. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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